

## REMARKS

Favorable reconsideration and allowance of this application are requested.

### **1. Discussion of Claim Amendments**

By way of the amendment instructions above, claims 1-20 have been canceled without prejudice or disclaimer to the applicants' rights under 35 USC §121 and replaced by new claims 21-27. In this regard, it is believed that the new claims are commensurate with the elections made in the response of September 12, 2008 since all claims are directed toward an olefin polymerization process and are limited to species (1), namely an imine ligand. (See lines 8-10 of new claim 21.)

Claims 21-27 are also limited to Ti comprising catalysts. Specifically, new claim 21 defines the metal organic reagent of the catalyst as being represented by  $ML_nX_p$ , where M is Ti. Support for Ti comprising catalysts in the context of the present invention can be found in the original specification in Table 1a.

Thus, following entry of the present amendment, claims 21-27 will remain pending herein for consideration.

### **2. Response to Art-Based Rejections**

Although the Examiner asserts that prior claims 1-7 and 9 are unpatentable under 35 USC §103(a) over Mackenzie et al (USP 6,245,871), the specter of 35 USC §102(b) was also raised as the Examiner noted that "Mackenzie's teaching *anticipates* the instant claims." (Official Action, page 2, paragraph 3, lines 9-10, emphasis added.) As will become evident from the discussion which follows, new claims 21-27 are novel and patentably *unobvious* over Mackenzie et al.

In this regard, the Examiner refers generally to "in situ" preparations described in Examples 4 and later of Mackenzie et al. Applicants note however that in chemistry the

term "in situ" means "in the reaction mixture." In chemical engineering, the term "in situ" often refers to industrial plant "operations or procedures that are performed in place." In any event, Mackenzie et al describe in the Examples processes wherein catalyst components are mixed and reacted undiluted in a Schlenk flask, after which the flask was evacuated and filled with ethylene and a solvent.

In fact therefore the catalyst of Mackenzie et al is prepared first, after which the remaining reaction mixture is added. According to the present invention, however, the catalyst components are added direct to the reaction mixture in a concentration, which is below  $\mu\text{mol Ti}$  (see Table 1a on page 17 of the specification) and is well below the concentration wherein the components of Mackenzie are mixed.

Furthermore, since the present invention is limited to Ti-comprising catalysts, the present invention as defined by new claims 21-27 is novel over Mackenzie et al. Moreover, Mackenzie et al cannot render obvious the invention defined by new claims 21-27 since one skilled in the art could not derive from such reference catalyst components comprising Ti which can be added in such low concentrations to a reaction mixture yet still result in an active catalyst system.

Thus, withdrawal of the rejection advanced against the subject application based on Mackenzie et al is in order.

Every effort has been made to advance prosecution of this application to allowance. Therefore, in view of the amendments and remarks above, applicant suggests that all claims are in condition for allowance and Official Notice of the same is solicited.

Should any small matters remain outstanding, the Examiner is encouraged to telephone the Applicants' undersigned attorney so that the same may be resolved without the need for an additional written action and reply.

**IJPEIJ et al**  
**Serial No. 10/567,097**  
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An early and favorable reply on the merits is awaited.

**3. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:           /Bryan H. Davidson/            
Bryan H. Davidson  
Reg. No. 30,251

BHD:dlb  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100